XI-HC-22

(50)

उच्च न्यायालय, छत्तीसगढ, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

S.B.- HON'BLE SHRI JUSTICE DHIRENDRA MISHRA, J

Cr. M.P. No. 455/2007

PETITIONER:
Non-Applicant/Accused

Samual James S/o W. James, aged 54 years, R/o Mandir Chowk, Near Jharabhata, P.S. Civil Line, Tehsil & District: Bilaspur C.G.

VERSUS

RESPODENT
Applicant

Sandeep Dayal S/o Ranjan Dayal, aged about 24 years, R/O Behind Balaji Temple, Anand Nagar, P.S. Civil Line, Tehsil & District :Raipur (C.G.)

10/10/2007

Shri Rupesh Shrivastava, counsel for the petitioner.

Heard.

The petitioner by the instant petition under Section 482 of Code of Criminal Procedure (for brevity 'the Code') has prayed for setting aside the order dated 22.9.2007 and for quashing of the criminal case No. 832/06 pending before the Court of Judicial Magistrate First Class, Raipur on the grounds that debt was not legally recoverable and there was no legally enforceable liability of the petitioner, which could be enforced by the complainant. Secondly, the cheque was returned because of the oral instructions of the petitioner to stop payment and thirdly, that there is no evidence available on record that the notice sent by the complainant was in fact received by the petitioner.

(51)

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All the arguments advanced by learned counsel for the petitioner have been elaborately discussed by the revisional Court in the impugned order. So far as the ground taken by the petitioner that the amount was not legally recoverable debt, is concerned, from the pleadings present in the complaint, it is evident that the amount was advanced by the complainant to meet the exigency of the petitioner and it was not a loan transaction by a money lender. There is evidence available on record that a legal notice was sent by the complainant to the petitioner through registered post and therefore, a presumption can be drawn that the same was served upon the petitioner. The Court below has rightly dismissed the criminal revision preferred by the petitioner with an observation that the objections raised by the petitioner pertain to the stage of defence, which can be decided only after recording of evidence on merits. There is no illegality or infirmity in the impugned order warranting interference under Section 482 of the Code.

In the result, the instant petition being devoid of substance deserves to be dismissed at the admission stage itself and is accordingly, dismissed.

Sd/-
Dhirendra Mishra
Judge